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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,089	03/31/2000	Hiroaki Takeuchi	0397-0404P	4024

7590

02/24/2003

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EXAMINER

PADGETT, MARIANNE L

ART UNIT

PAPER NUMBER

1762

DATE MAILED: 02/24/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.



09/31/089

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 12

Below is a communication from the EXAMINER in charge of this application
COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY (check only a) or b)

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07(f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search. (see NOTE below);
- (b) ☐ they raise the issue of new matter. (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE:

While the revision of claim 1 would positively generate plasma, it does not positively use that plasma for any processing, and creates multiple antecedent basis problems via incorrect usage of articles. Also, new claims 9-10 simply use for etching or surface treatment, but never positively claim to do these processes, so their meaning is ambiguous.

4. ☐ Applicant's reply has overcome the following rejection(s):

5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place

the application in condition for allowance because: applicants allege a linear relationship for plasma and frequency from their formula, but a line is defined by $y = ax + b$, so the inclusion of "2" less than requires the inclusion of "2" less than raised by the Examiner in the final rejection.

7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly

8. ☒ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1 + 4-8

Claim(s) withdrawn from consideration: _____

9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.

10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

11. ☐ Other: broader than just a linear relationship. Note Foster et al's Ex in Tables 4, 5 & 6, teach $P = 5 \text{ torr}$ and

$f = 450 \text{ KHz}$, therefore $450 \text{ KHz} \times (10^3 \text{ Hz}) \times (2 \times 10^{-10} \text{ Hz}) = 0.09 \text{ torr} \leq 5 \text{ torr} \leq 50 \text{ torr}$, this uses the criterion of the claimed empirical formula in doing the taught process, whether or not it is derived from the formula. In Yama et al, Ex 10, col 17-20 all use 13.56 MHz, which gives $2.712 \text{ torr} \leq P \text{ (torr)}$, thus the taught use of either 60 or 100 torr in the specific examples meet claimed criteria and demonstrate that those criteria are NOT linear. Given the same criteria for parameters are not, the same relative "high rate" and stable plasma would be produced. An empirical formula which covers multiple specific examples can not be considered to create a rational and obvious process.